

ENDORSED
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By S. VERA 10/10/13

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11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **COUNTY OF SANTA CLARA**

13 SAN JOSÉ POLICE OFFICERS
ASSOCIATION,

14 Plaintiff,

15 v.

16 CITY OF SAN JOSÉ, BOARD OF
17 ADMINISTRATION FOR POLICE AND
FIRE RETIREMENT PLAN OF CITY OF
18 SAN JOSÉ, and DOES 1-10 inclusive.,

19 Defendants.

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21 AND RELATED CROSS-COMPLAINT
AND CONSOLIDATED ACTIONS.
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Case No. 1-12-CV-225926

[Consolidated with Case Nos. 112CV225928,
112CV226570, 112CV226574, 112CV227864]

**OBJECTION TO SAN JOSE RETIRED
EMPLOYEES' ASSOCIATION'S
OPPOSITION TO MOTION FOR
SUMMARY ADJUDICATION**

Date: June 7, 2013
Time: 9:00 a.m.
Dept.: 2
Judge: Hon. Patricia M. Lucas

Complaint Filed: July 22, 2013
Trial Date: None Set

1-12-CV-225926

OBJECTION TO SJREA's OPPOSITION TO MOTION FOR SUMMARY ADJUDICATION

1 The City objects to the papers filed by the San Jose Retired Employees' Association
2 ("SJREA") in opposition to the City's Motion for Summary Adjudication and asks that the Court
3 not consider them in ruling on the City's motion.

4 The City objects to the SJREA's opposition papers because the SJREA is not a party to
5 this motion, has refused to waive notice and service, and has not filed an application to appear as
6 amicus curiae.

7 Specifically, the City objects to the following documents submitted by the SJREA:

8 1. Memorandum of Points and Authorities of San Jose Retired Employees'
9 Association, Howard E. Fleming, Donald S. MacCrae, Frances J. Olson, Gary J. Richert and
10 Rosalinda Navarro in Opposition to Motion for Summary Adjudication of Issues;

11 2. Objections to the Declaration of Alex Gurza in support of the City's Motion for
12 Summary Adjudication;

13 3. Separate Statement of Disputed Material Facts of San Jose Retired Employees'
14 Association, Howard E. Fleming, Donald S. MacCrae, Frances J. Olson, Gary J. Richert and
15 Rosalinda Navarro in Opposition to Motion for Summary Adjudication of Issues ;

16 4. Plaintiffs/Petitioners San Jose Retired Employees' Association, Howard E.
17 Fleming, Donald S. MacCrae, Frances J. Olson, Gary J. Richert and Rosalinda Navarro's Request
18 for Judicial Notice in Support of Memorandum of Points and Authorities in Opposition to Motion
19 for Summary Adjudication and by the City of San Jose; Declaration of Jacob A. Kalinski

20 The City objects to the participation of the SJREA on the following grounds.

21 On February 7, 2013, the City filed its Motion for Summary Adjudication. At that time,
22 the SJREA had not been consolidated into this action. Therefore, the City did not notice or serve
23 its papers on SJREA.

24 On April 19, 2013, this Court granted the SJREA motion to consolidate. On April 23,
25 2013, all the parties participated in a case management conference call with the Court to address,
26 among other things, SJREA's status in relation to the City's Motion for Summary Adjudication.
27 During that conference, the SJREA stated that it did not recall when it first received the City's

1 Motion for Summary Adjudication and supporting papers, but desired to file a brief in opposition
2 to the City's Motion. The SJREA further stated, however, that it would not waive notice and
3 service of the City's Motion and supporting papers, and would not agree to be bound by the
4 Court's ruling on the City's motion. Subsequently, the SJREA filed an opposition to the City's
5 Motion. The SJREA's "opposition" is improper, as it is not properly a party to the motion, having
6 refused to waive notice and service. If the SJREA had wished to submit its views on the City's
7 Motion, it should have filed an application to be heard as amicus curiae, but it did not do so.

8 The City therefore objects to the SJREA's opposition papers in their entirety and requests
9 that the Court not consider them in ruling on the City's motion.

10 DATED: May 24, 2013

MEYERS, NAVE, RIBACK, SILVER & WILSON

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12 By:


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